

REMARKS

All of the pending claims have been rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Dangat and either Monster.com or Guru.com. No amendments to the claims are presented herein. Reconsideration is respectfully requested.

A. The Cited References Are Non-Analogous Art

Applicant first respectfully notes that none of the cited references are analogous art. As discussed in Applicant's previous amendment, Dangat is not in the same field of endeavor as the present invention, and does not relate to the problems addressed by the present application, and therefore is not analogous art. See Applicant's amendment dated April 14, 2006, page 22. The Final Office Action does not address this issue.

Furthermore, neither Monster.com nor Guru.com are analogous art. As set forth in the first paragraph of the application, the field of the present invention generally relates to a method and system for facilitating service transactions between service providers and purchasers of services, automatically and without human intervention, and more particularly, to a computer-implemented method or system that provides a service marketplace for transacting services driven by purchasers or by the service provider. Each of claims 1, 74 and 75 is specifically directed to "a computer-implemented method for facilitating a services marketplace between multiple buyers and sellers of services." As the Federal Circuit has clearly explained in its 2005 Phillips en banc decision, claims must be interpreted by giving their terms the ordinary and customary meaning of those skilled in the art in view of the specification. Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) en banc (emphasis added). Here, the Examiner has interpreted service marketplace more broadly than defined in the specification, and beyond what the person of ordinary skill in the art would consider to be ordinary and customary. The

background and summary of the invention at pages 1-4 makes clear that the service marketplace of the present invention is for those types of services that are typically done on a contract basis, between buyers and sellers based upon the desired needs of each party, and on factors such as price, quality, delivery time, and the like. There is nothing in the specification discussing the services marketplace as constituting an employer/employee hiring market. There is no evidence that a person having ordinary skill in the art would define the customary and ordinary meaning of "services marketplace" as an employer/employee marketplace. To equate the service marketplace with an employer/employee marketplace is an overly broad interpretation that is not supported by the specification, and therefore is improper pursuant the claim construction guidelines set forth by the Federal Circuit.

Since both Monster.com and Guru.com are merely internet sites for posting job resumes, they are not within the field of the present invention and do not address the problems of the present invention. Accordingly, Monster.com and Guru.com are non analogous art.

B. No *Prima Facie* Case of Obviousness Has Been Made

In paragraph 6 of the Final Office Action, the Examiner acknowledges that Dangat is for microelectronics manufacturing, but then concludes that "it would be obvious to one of ordinary skill in the art to adapt the teachings of Dangat to a wide variety of services." No prior art is cited to support this conclusion. Since Dangat relates to a manufacturer's internal manufacturing scheduling system, it is anything but obvious as to how it could be adapted to services which are being bought and sold between unrelated parties. In the absence of cited prior art, the obviousness rejection is improper and must be withdrawn.

In paragraph 8 of the Office Action, the Examiner admits that Dangat is not identical to the present application, but concludes that it would be obvious to one of ordinary skill in the art

to adapt Dangat in order to make available a wide variety of services, with a minimum of intermediary manpower and maximum of available criteria in a user-friendly manner. However, the Examiner cites no prior art to support this conclusion. § 103 requires that a claimed invention be compared to the prior art. Without any prior art citation to fill the voids of Dangat, the obviousness rejection is improper and must be withdrawn.

C. The Claim Limitations Are Not Met By the Cited References

The present application includes independent claims 1, 74 and 75. These claims are substantially similar, except for the last element of each claim. Each of claims 1, 74 and 75 require the following steps, which are not taught or suggested by the references:

1. facilitating a services marketplace between multiple buyers and sellers of services;
2. registering a plurality of participants;
3. compiling offers to sell services and requests to buy services;
4. automatically evaluating and matching the offers and the requests, without human intervention;
5. automatically evaluating and matching the offers and requests based upon the degree of identicalness of the set of service classification and material terms recited in the offers and requests;
6. communicating to matched participants of the results generated by the evaluating and matching step.

The last step of each of claims 1, 74 and 75 also are not taught or suggested by the cited references, that is:

Claim 1 - the offers being unknown to service buyers and requests being unknown to service sellers prior to the communicating step;

Claim 74 - bartering a transaction between the matched participants based upon said set of service classification and material terms recited in the matched offer and the matched request; and

Claim 75 - data-mining the offers and the requests to discover at least one attribute of one, a portion, or all of the participants.

1. Dangat, Monster and Guru do not describe a services marketplace between buyers and sellers of services

Claims 1, 74 and 75 are each directed towards a method for facilitating a services marketplace between buyers and sellers of services. Dangat does not meet this preamble limitation, since Dangat is merely an internal inventory and production control tool for a manufacturer. There is no marketplace, and there is no buyer or seller of the services. Rather, Dangat merely schedules the best time to produce a product of the manufacturer, based upon inventory and delivery requirements.

Monster.com and Guru.com do not meet this preamble limitation, since it is beyond the ordinary and customary meaning to equate a potential employer as a "buyer of services" and a potential employee as a "seller of services". In layman's language, the company you work for is your "employer" and not your "buyer." Similarly, the company's workers are their "employees" and not their "sellers."

2. The references do not teach "registering a plurality of participants"

Since Dangat relates to a manufacturing production schedule system for a manufacturer, there are not a plurality of participants, as required by claims 1, 74 and 75. Even if different

departments within the manufacturer are considered "participants", such departments do not have to register for manufacturing services. There is no reason to have such a registration step for scheduling production times at a single manufacturer, and no motivation to combine any such registration step from Monster.com or Guru.com with Dangat.

3. The references do not teach or suggest "compiling offers to sell services and requests to buy services"

Dangat clearly does not have offers to sell manufacturing services which are compiled. Dangat also does not have requests to buy services which are compiled, particularly since there is no buyer involved in the Dangat scheduling process. To the extent that a third party is buying the products manufactured by Dangat, that third party is not privy to the production scheduling function described in Dangat. While Dangat may compile requests for manufacturing services, these are simply requests to schedule manufacturing, not requests to buy manufacturing. Similarly, there are no corresponding offers to sell manufacturing services to be compiled by Dangat. At best, in Dangat, one or more requests for production are submitted and the system determines the best production schedule. There simply is no offer to buy or sell services in Dangat. The Monster.com and Guru.com references do not overcome this deficiency of Dangat.

4. The references do not teach or suggest automatically evaluating and matching the offers and requests without human intervention.

Since Dangat does not have any offers to sell or requests to buy services, there is not a matching of offers and requests, as required by claims 1, 74 and 75. In Monster.com and Guru.com the matching requires human intervention, in that the job applicants must personally

determine what job offers best match their desires. Thus, Monster.com and Guru.com each require human intervention, contrary to the requirement of claims 1, 74 and 75.

5. The references fail to teach or suggest automatically evaluating and matching the offers and requests based upon the degree of identicalness.

This limitation of claims 1, 74 and 75 rates or prioritizes the matches based upon the degree of identicalness of the classification and material terms of the offers and requests. Since Dangat does not have any offers and requests to sell and buy services, this limitation is not satisfied by Dangat. Dangat does not have any matching step, but merely assigns production times to various projects. "Matching" and "assigning" are not synonymous or equivalent. Matching based upon terms is different than assigning based upon availability of time and materials. Dangat is simply a time management tool which assigns projects to available manufacturing times. Such a system is not the same as matching service terms submitted by potential buyers and sellers of services. Monster.com and Guru.com do not match, prioritize, or rate based upon the terms of employment. Rather, the job applicant must review the job description to determine if a job matches his/her terms. Therefore, this limitation is not met by the cited references, alone or in combination.

6. Communicating to matched participants is not taught or suggested by the references.

Since Dangat only has one manufacturer, it does not have any participants to match. In other words, there is no choice in who will do the manufacturing. Therefore, this communication steps of claims 1, 74 and 75 is not met by Dangat. Similarly, neither Monster.com nor Guru.com match potential employers and employees. Rather, the potential employees personally determine

if there is a desirable job, and contact the potential employer. Since Monster.com and Guru.com do not match participants, there can be no communication step, in accordance with the claims.

7. The anonymity step of claim 1 is not met by the references.

Claim 1 requires that offers and requests be unknown to the buyers and sellers, respectively, prior to the communication step. The Examiner acknowledges that Dangat does not have anonymity in its scheduling process. The Examiner relies upon Monster.com and Guru.com for this step. However, there is no motivation to maintain anonymity in the Dangat process, since it is all internal to a particular manufacturer. Therefore, as a matter of law, there is no basis for combining Monster.com or Guru.com with Dangat. Furthermore, the potential employee looks at the potential jobs before there is any communication between the potential employer and employee, such that Monster.com and Guru.com do not have anonymity.

8. The references do not meet the bartering step of claim 74.

The last step of claim 74 requires "bartering a transaction between the matched participants based upon said set of service classification and material terms recited in the matched offer and a matched request". There is no disclosure in any of the cited references for such a bartering step, such that this limitation alone distinguishes claim 74 over the references.

9. The data mining step of claim 75 is not met by the references.

The last step of claim 75 requires "data-mining the offers and requests to discover at least one attribute of one, a portion, or all of the participants". None of the references teach or

suggest such a data-mining step, such that this step alone distinguishes claim 75 over the references.

CONCLUSION

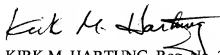
Since numerous limitations of independent claims 1, 74 and 75 are not satisfied by the references, alone or in combination, these claims, and the claims depending therefrom, are in proper form for allowance. Furthermore, Dangat, Monster.com and Guru.com references are all non analogous art, and accordingly improper references to cite in a rejection of the claims. Also, there has been no *prima facie* showing of obviousness, due to the lack of prior art evidence to support some of the Examiner's conclusions. Lastly, there is no motivation for combining Monster.com and Guru.com with Dangat, such that the § 103 rejection is improper.

Accordingly, in view of the foregoing, Applicant respectfully requests that a Notice of Allowance be issued.

Please consider this a one-month extension of time from October 3, 2006 to November 3, 2006 and charge Deposit Account No. 26-0084 the amount of 60.00 for this extension. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kirk M. Hartung". The signature is fluid and cursive, with a large, stylized "H" at the end.

KIRK M. HARTUNG, Reg. No. 31,021
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 22885

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Attorneys of Record